Narain Lal vs. State
(S.B.Criminal Revision No.103/93)

Dated:- 23.1.2007.

HON'BLE MR.JUSTICE G.S.SARRAF

Mr. Sandeep Mehta,for the petitioner.
Mr.O.P.Rathi, Public Prosecutor.

The petitioner has filed this revision petition against the judgment of Special Judge and Additional Sessions Judge, Bikaner dated 12.4.1993 confirming the conviction u/s 409 IPC and sentence of one year's rigorous imprisonment and a fine of Rs.1000/- in default of payment of fine further imprisonment for three months passed against the petitioner by Chief Judicial Magistrate, Bikaner by judgment dated 30.10.1987.

Heard learned counsel for the petitioner and the learned Public Prosecutor.

The total amount regarding which criminal breach of trust is alleged is Rs.2479.50. The petitioner is alleged to have received this amount from November, 1972 to October, 1973. The aforementioned amount has been deposited by the petitioner in the month of November, 1973. The report has been lodged on 8.1.1978. It is clear from the facts stated above that the petitioner deposited in the month of November, 1973 more than four years before the F.I.R. was logded in the matter the amount received by him from

November,1972 to October, 1973. Indrajeet Goyal, Assistant Engineer(P.W.21) has admitted in his cross examination that in his opinion the petitioner is not guilty of criminal breach of trust and he only committed an irregularity by delayed deposit of the amount. In the peculiar facts and circumstances of the case I have come to the conclusion that there has not been any dishonest mis-appropriation of the amount entrusted to the petitioner as contemplated u/s 405 IPC. I am, therefore, of the opinion that the prosecution has not been able to prove beyond reasonable doubt the offence u/s 409 IPC against the petitioner .

In the result, the revision petition is alowed and the conviction and sentence awarded by the two courts below are set aside and the petitioner is acquitted. The bail bonds stand discharged.

(G.S.SARRAF),J.